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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,631	01/16/2004	Bruno Gabathuler	36379	1213

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EXAMINER

LE, HUYEN D

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 03/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/759,631

Applicant(s)

GABATHULER, BRUNO

Examiner

HUYEN D. LE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the switches, coils or memory circuits must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 5, line 2, “preferably” does not have a positive limitation.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2 and 4-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen (U.S. patent 6,430,296).

Regarding claim 1, Olsen teaches a hearing aid housing that has a housing shell (1), a base plate (2) and at least a cap (3) as claimed (figures 1, 2). Olsen further shows one electronic or electromechanical element (4, 5, 6, 7, 11, 23) that is arranged within the cap.

Regarding claim 2, as broadly claimed, Olsen teaches the electronic or electromechanical element (5, 33, 34) has an actuator that is operable from the outside of the base plate in the closed state of the cap (also see col. 5, lines 40-49).

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Regarding claim 4, as broadly claimed, Olsen teaches the cap (3, 23) that is consists of contact elements (the terminals on the battery 23). These contact elements are electrically connected or arranged respectively with corresponding contact elements of the base plate or the housing (col. 4, lines 46-52 and col. 5, lines 17-23).

Regarding claim 5, Olsen teaches the contact elements (19, 22) that are built a contact tongues or contact strips as claimed.

Regarding claim 6, Olsen shows the cap (3) that is built as a battery support.

Regarding claim 7, Olsen teaches the spring contact elements or contact tongues (19, 22) that are arranged on the base plate or housing shell (figures 1, 2). These contact elements are in electrical contact with corresponding contact elements of the cap in the closed state (col. 5, lines 17-23).

Regarding claim 8, Olsen teaches the cap (3) that is pivotally connected by the axis of the housing shell or the base plate as claimed.

5. Claims 1 and 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Batting (U.S. 2004/0062409).

Regarding claim 1, Batting teaches a hearing aid housing that has a housing shell (1, 2), a base plate (2, figures 1, 3) and at least a cap (4, 5) as claimed. Batting further shows one electronic or electromechanical element (5 and battery) that is arranged within the cap.

Regarding claims 4 and 7, Batting shows the cap (4, 5) that is consists of contact elements (10). These contact elements are electrically connected or arranged respectively with

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corresponding contact elements of the base plate or the housing (see lines 10-16 in paragraph [0027]).

Regarding claim 5, Batting shows the contact elements (10) that are built a contact tongues or contact strips as claimed.

Regarding claim 6, Batting shows the cap (4) that is built as a battery support.

Regarding claim 8, as shown in figures 1 and 3, the cap (4) is pivotally connected by an axis of the housing shell as claimed.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olsen (U.S. patent 6,430,296).

Olsen teaches the electronic element (4) that has a microphone (5), a receiver (7) and a signal processing part (6). Olsen does not specifically teach the switches, coils or memory circuits in the electronic element. However, it is very well known in the art to provide the switches, coils or memory circuits in the electronic element of a hearing aid.

Therefore, it would have been obvious to one skilled in the art to provide any electronic circuit such as the switches, coils or memory circuits in the electronic module (4) of the Olsen device for better processing signals depending on the desired frequency characteristics.

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Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Batting (US 2004/0062409) teaches a communication element (5) on the battery drawer having a plurality of contact elements.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (703) 305-4844. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CURTIS KUNTZ can be reached on (703) 305-4708. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



HL
March 18, 2005



HUYEN LE
PRIMARY EXAMINER